

# Court of Appeals, State of Michigan

## ORDER

PEOPLE OF MI V EDWARD FRANKLIN HULBERT

Docket No. 276435

LC No. 03-013676-FH

Karen M. Fort Hood  
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly  
Judges

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The Court orders that, in lieu of granting leave to appeal, we VACATE the trial court's sentence and remand for resentencing in accordance with our opinion in Docket No. 262505. In light of the trial court's invitation to defendant to withdraw his plea and the reliance on factors to depart that were rejected in the prior appeal to this Court, resentencing before a different judge is appropriate to preserve the appearance of justice. *People v Hill*, 221 Mich App 391, 398; 561 NW2d 862 (1997). Accordingly, we remand for resentencing before a different judge. Defendant's motion to affirm is moot.

Judge Talbot joins in the order vacating the sentence, but opines that there is no basis to remand for resentencing before a different judge.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 01 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk